

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

LESTER B. PAGE)	
Claimant)	
VS.)	
)	Docket No. 227,753
WOODS PAINTING COMPANY, INC.)	
Respondent)	
AND)	
)	
AIU INSURANCE COMPANY)	
Insurance Carrier)	

ORDER

Claimant appeals from a Preliminary Decision entered by Administrative Law Judge Robert H. Foerschler on December 8, 1997.

ISSUES

The Administrative Law Judge found that claimant failed to establish that his alleged back injury arose out of and in the course of his employment. Claimant appeals this finding and also contends that the Administrative Law Judge failed to address claimant's allegation that he also suffered leg injuries.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and after considering the argument made by the parties, the Appeals Board concludes that the order by the Administrative Law Judge should be affirmed.

Claimant alleged and testified that he injured his right shoulder, low back and both legs on September 16, 1997, loading ladders onto a van. Respondent provided treatment for a right shoulder injury but disputed claimant's allegation that he injured his low back or legs. After hearing claimant's testimony and reviewing medical records introduced, the Administrative Law Judge concluded "there is too much discrepancy between the

claimant's testimony and the emergency room report" On that basis, he denied claimant's application for treatment to the low back and legs.

As above indicated, the Appeals Board agrees with the decision by the Administrative Law Judge. The emergency room record from claimant's visit on the date of the alleged accident states that claimant's chief complaint is injury to his right shoulder. An Addendum is added to those records indicating that as claimant was being discharged, he "mentioned that he had been having some numbness in his feet and legs for some time." The Addendum goes on to state that the claimant denies any back problems and the numbness has come and gone for some months. Claimant does not give an adequate explanation for these discrepancies.

Claimant contends the Administrative Law Judge did not address the issue of treatment for problems with his legs. It is true that the order by the Administrative Law Judge mentions specifically the back but not the legs. The Administrative Law Judge likely viewed the numbness in the legs as a symptom from a back condition and; in any event, denied claimant's application for additional treatment. The Board agrees with and affirms that denial.

Respondent has also argued in its brief that claimant should be denied additional treatment for his shoulder. According to respondent, the evidence does not establish the shoulder injury arose out of and in the course of employment. Treatment for the alleged shoulder injury was not, however, an issue presented to or decided by the Administrative Law Judge. The decision by the Board to affirm the order of the Administrative Law Judge is, therefore, not intended to address or rule upon respondent's obligation to provide medical treatment for claimant's alleged shoulder injury.

WHEREFORE, the Appeals Board finds that the order by Administrative Law Judge Robert H. Foerschler, dated December 8, 1997, should be, and the same is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of February 1998.

BOARD MEMBER

c: Steven D. Treaster, Overland Park, KS
John B. Rathmel, Overland Park, KS
Robert H. Foerschler, Administrative Law Judge
Philip S. Harness, Director